

Adopt He-C 210, cited and to read as follows:

CHAPTER He-C 200 RULES OF PRACTICE AND PROCEDURE

PART He-C 210 WAIVER OF PROCUREMENT PROVISIONS

Statutory Authority: RSA 21-G:37, V

He-C 210.01 Scope. Unless otherwise specified, He-C 210 shall apply to the procurement of goods and services by the New Hampshire department of health and human services through a request for bid, (RFB), request for application (RFA), or a request for proposal (RFP), or through a similar invitation.

He-C 210.02 Purpose. These rules implement RSA 21-G:37, V, by:

- (a) Setting forth the circumstances under which the provisions of RSA 21-G:37 II – IV shall be waived by the department; and
- (b) Establishing the circumstances constituting an emergency or loss of funding under RSA 21-G:37, V.

He-C 210.03 Definitions.

- (a) “Commissioner” means the commissioner of the department of health and human services or his or her designee.
- (b) “Department” means the New Hampshire department of health and human services.
- (c) “Emergency situation” means a situation, condition, or set of circumstances, the source of which is natural, technological, or human made, that has caused or might be determined by the commissioner likely to cause the health or safety of individuals served by the department to be at risk by:
 - ~~(1) Place the health and safety of individuals served by the department at risk;~~
 - ~~(2)(1)~~ Impeding or diminishing the department’s ability to provide materials or services to an individual or group;
 - ~~(3)(2)~~ Inhibiting or interrupting the continuity of services provided by the department; or
 - ~~(4)(3)~~ Preventing the department from complying with the law.
- (d) “Request for application (RFA)” means an invitation to submit an offer to provide identified services to an agency where the amount of funding available and the particulars of how the services are to be provided are defined by the agency and where the selection of qualifying vendors will be according to identified criteria as provided in RSA 21-I:22-a and RSA 21-I:22-b.
- (e) “Request for bid (RFB)” means an invitation to submit an offer to provide specified commodities or services to an agency at a price proposed by the bidder where selection is based on the lowest price meeting or exceeding specifications as stated in the bid.

(f) “Request for proposal (RFP)” means an invitation to submit a proposal to provide specified goods or services, where the particulars of the goods or services and the price are proposed by the vendor and, for proposals meeting or exceeding specifications, selection is according to identified criteria as provided in RSA 21-I:22-a and RSA 21-I:22-b.

He-C 210.04 Waiver of Requirements.

(a) The commissioner shall waive any or all of the provisions of RSA 21-G:37, II – IV for any RFA, RFB, RFP, or similar invitations in order to prevent the loss of federal or other funds subject to recapture or if the commissioner determines that there is an emergency situation as defined in He-C 210.03(c) and such waiver would prevent or mitigate the emergency situation~~one of the provisions in He-C 210.03(e)(1)-(4).~~

(b) The department shall post the information required by RSA 21-G:37, II and III as soon as practicable after the circumstances which gave rise to the waiver have been mitigated.

Appendix

Rule	Specific State Statute the Rule Implements
He-C 210	RSA 21-G:37, V